



**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

**48 CFR Part 219**

**[Docket DARS-2022-0011]**

**RIN 0750-AL54**

**Defense Federal Acquisition Regulation Supplement: Small Business Specialist Review Threshold Update (DFARS Case 2022-D002)**

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to modify the nomenclature used for the threshold for the small business specialist review of acquisitions to align it with the threshold for small business set-asides at Federal Acquisition Regulation (FAR) 19.502-2(a).

**DATES:** Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Ms. Jeanette Snyder, 571-372-6106.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD is issuing a final rule to amend the DFARS to revise the nomenclature used to identify the threshold for the small

business specialist review of acquisitions at DFARS

219.201(c)(10)(A) to use the term "micro-purchase threshold" in lieu of the dollar amount "\$10,000" to align it with FAR 19.502-2(a). The dollar threshold at FAR 19.502-2(a) was modified to reflect the "micro-purchase threshold" on August 31, 2020, via FAR case 2018-004 (85 FR 40064, July 2, 2020); however, the threshold at DFARS 219.201(c)(10)(A) was not similarly adjusted. This final rule makes that conforming adjustment.

DFARS 219.201(c)(10)(A) requires small business specialists to review and make recommendations for all acquisitions over \$10,000 except for those under the simplified acquisition threshold that are totally set aside for small business concerns. Since the threshold at FAR 19.502-2(a) for total small business set-asides is "the micro-purchase threshold", the threshold at DFARS 219.201(c)(10)(A) is being changed for consistency. This final rule does not modify the dollar value of the threshold since the micro-purchase threshold and the small business specialist review threshold are both \$10,000 unless an exception applies in accordance with the micro-purchase threshold definition at FAR 2.101.

This rule does not change the requirements for the small business specialist review of acquisitions. Small business specialists will continue to review acquisitions over the micro-purchase threshold, except those under the simplified acquisition threshold that are totally set aside for small business concerns.

## **II. Publication of This Final Rule for Public Comment Is Not Required by Statute**

The statute that applies to the publication of the FAR is 41 U.S.C. 1707, Publication of Proposed Regulations. Subsection (a)(1) of the statute requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment because it merely modifies the nomenclature used to describe an existing threshold; it does not change the dollar value of the threshold. The threshold affects only the internal operating procedures of the Government.

## **III. Applicability to Contracts at or below the Simplified Acquisition Threshold and for Commercial Services and Commercial Products, Including Commercially Available Off-the-Shelf Items**

This rule does not create any new solicitation provisions or contract clauses. It does not impact any existing solicitation provisions, contract clauses, or prescriptions for the use of solicitation provisions or contract clauses.

## **IV. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory

alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

#### **V. Congressional Review Act**

As required by the Congressional Review Act (5 U.S.C. 801-808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

#### **VI. Regulatory Flexibility Act**

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501-1, and 41 U.S.C. 1707 does not require publication for public comment.

## **VII. Paperwork Reduction Act**

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

### **List of Subjects in 48 CFR Part 219**

Government procurement.

**Jennifer D. Johnson,**

*Editor/Publisher, Defense Acquisition Regulations System.*

Therefore, 48 CFR part 219 is amended as follows:

#### **PART 219—SMALL BUSINESS PROGRAMS**

1. The authority citation for 48 CFR part 219 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

##### **219.201 [Amended]**

2. Amend section 219.201 in paragraph (c)(10)(A) by removing “\$10,000” and adding “the micro-purchase threshold (see FAR 19.502-2(a))” in its place.